

HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WISTRON CORPORATION, a Taiwan  
corporation,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD., a  
Republic of Korea corporation; SAMSUNG  
ELECTRONICS AMERICA, INC., a New York  
corporation; and SAMSUNG  
TELECOMMUNICATIONS AMERICA, LLC,  
a Delaware limited liability company;

Defendants.

**Case No. 2:08-CV-1373-MJP**

**FIRST AMENDED COMPLAINT FOR  
INFRINGEMENT U.S. PATENT NOS.  
5,410,713; 5,870,613; 5,903,765; AND  
5,450,079**

**JURY TRIAL DEMANDED**

Plaintiff WISTRON CORPORATION (“Wistron”) complains of Defendants  
SAMSUNG ELECTRONICS CO., LTD. (“SEC”), SAMSUNG ELECTRONICS AMERICA,  
INC. (“SEA”), and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC (“STA”)  
(collectively, “Defendants”) and by this First Amended Complaint alleges as follows.

**PARTIES**

1. Wistron is a corporation organized in 2001, and existing under the laws of  
Taiwan, with its principle place of business in Hsichih, Taiwan. Wistron is an Original  
Design Manufacturing (“ODM”) company that designs, develops and manufactures electronic

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1 products for customers to sell under their own brand name including companies such as  
2 Microsoft, Hewlett Packard, Dell and Lenovo. As a result, Wistron is a leading manufacturer  
3 of personal computers including stand alone PCs, laptops, notebooks and other computing  
4 devices, including computing devices that are sold throughout the United States, including  
5 this district.

6 2. SEC is a corporation organized and existing under the laws of the Republic of  
7 Korea, with its principle place of business at 250 2-ga Taepyong-ro, Jung-gu, Seoul, 100-742,  
8 South Korea. SEC is a member of the multinational conglomerate Samsung Group, which  
9 manufactures and sells electronic products including cell phones, video playback equipment  
10 such as VCRs and DVD players, set top boxes and computers. In 2007, SEC boasted sales  
11 revenues of nearly \$100 billion, with a net income in excess of \$7.4 billion.

12 3. SEA is a New York corporation with its principal place of business at 105  
13 Challenger Park Road, Ridgefield Park, New Jersey 07660. On information and belief, SEA  
14 was formed in 1977 as a subsidiary of SEC, and markets, sells, or offers for sale a variety of  
15 consumer electronics products including video playback equipment, TVs, set top boxes and  
16 all manner of computer components and peripherals. On information and belief, SEA  
17 manages the operations of STA.

18 4. STA is a Delaware limited liability company with its principal place of  
19 business at 1301 East Lookout Drive, Richardson, Texas 75091. On information and belief,  
20 STA was founded in 1996 as a subsidiary of SEC, and markets, sells, or offers for sale a  
21 variety of personal and business communications devices in the United States, including cell  
22 phones.

### 23 JURISDICTION

24 5. This is an action for patent infringement, over which this Court has subject  
25 matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

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1 power management systems and methods for computers. A true and correct  
2 copy of the '713 patent is attached hereto as Exhibit 1.

3 b. U.S. Patent No. 5,870,613 entitled "Power Management System for a  
4 Computer," was duly and legally issued on February 9, 1999, from patent  
5 application Serial No. 08/422,599 filed on April 14, 1995, which application  
6 was a continuation of application Serial No. 07/816,108 filed on January 2,  
7 1992 (and that lead to the issuance of the '713 patent), with Dave White, Yen  
8 Wei Lee, Rod Ang, Ray Barbieri, James Chen and Suh Chiueh Lee as the  
9 named inventors (the "'613 patent"). Among other things, the '613 patent  
10 discloses power management systems and methods for computers. A true and  
11 correct copy of the '613 patent is attached hereto as Exhibit 2.

12 c. U.S. Patent No. 5,903,765 entitled "Power Management System for a  
13 Computer," was duly and legally issued on May 11, 1999, from patent  
14 application Serial No. 08/825,663 filed on April 3, 1997, which application  
15 was a division of application No. 08/422,599 (that lead to the issuance of the  
16 '613 patent), which is a continuation of application Serial No. 07/816,108 filed  
17 on January 2, 1992 (that lead to issuance of the '713 patent), with Dave White,  
18 Yen Wei Lee, Rod Ang, Ray Barbieri, James Chen and Suh Chiueh Lee as the  
19 named inventors (the "'765 patent"). Among other things, the '765 patent  
20 discloses power management systems and methods for computers. A true and  
21 correct copy of the '765 patent is attached hereto as Exhibit 3.

22 9. Wistron is a co-owner of all right, title and interest in the following United  
23 States Patent (the "Wistron B Patent"), and is the owner of the sole and exclusive right to  
24 bring suit with respect to any past, present and future infringement thereof:  
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1 a. U.S. Patent No. 5,450,079 entitled "Multimodal Remote Control Device  
2 Having Electronically Alterable Keypad Designations," was duly and legally  
3 issued on September 12, 1995, from patent application Serial No. 301,513 filed  
4 on September 7, 1994, which application was a continuation of Serial No.  
5 867,652 filed on April 13, 1992, with Lester W. Dunaway as the named  
6 inventor (the "'079 patent"). Among other things, the '079 patent discloses a  
7 multimodal remote control system. A true and correct copy of the '079 patent  
8 is attached hereto as Exhibit 4.

9 10. Each of the Wistron A Patents and the Wistron B Patent is valid and  
10 enforceable.

11 11. No later than June 28, 2007, representatives of SEC were put on express  
12 written and oral notice of Wistron's claim that one or more of the Defendants are infringing  
13 the '613 patent. The notice provided by Wistron to SEC included, but was not limited to  
14 claim charts covering the Samsung Blackjack SGH-i607 and SGH-D307 cell phones. On  
15 information and belief, Defendants have been on notice of the balance of the Wistron Patents  
16 since approximately that time.

17 12. Each of the Defendants has directly and indirectly infringed and continues to  
18 infringe, literally or under the doctrine of equivalents, one or more claims of the Wistron A  
19 Patents by acting without authority so as to:

20 a. make, have made, use, offer to sell, sell within the United States, or import into  
21 the United States computer and digital products, that embody or practice the  
22 patented inventions, or practice the patented processes in the United States in  
23 connection with these activities, including at least:

24 i. Samsung SGH-D900 and SGH-D500 cell phones along with any other  
25 cell phones that embody or use the same or equivalent power  
26

management units and/or start up routine technology systems or methods;

ii. Samsung DVD-E217, E218, E219, E317, E319, E135, E535, P213, P313, E2323 players and any other DVD players that embody or use the same or equivalent power management units and/or start up routine technology systems or methods; and

iii. Samsung Blu-Ray players, televisions, home theater systems, data projectors, laser printers, multi-function printers, MP3 players and UMPC's that embody or use the same or equivalent power management units and/or start up routine technology systems or methods as the specific cell phones and DVD players identified above.

b. contribute to or actively induce infringement of the Wistron A Patents.

13. The foregoing products shall be referred to as the Wistron A Accused Products

14. Each of the Defendants has directly and indirectly infringed and continues to infringe, literally or under the doctrine of equivalents, one or more claims of the Wistron B Patent by acting without authority so as to:

a. make, have made, use, offer to sell, sell within the United States, or import into the United States computer and digital products, that embody or practice the patented inventions, or practice the patented processes in the United States in connection with these activities, including at least:

i. Samsung BN59-00700A remote control, when used in conjunction with Samsung LN46A860, LN52A860, LN52A850, LN46A850, LN55A950, and LN46A950 LCD TVs, and any other remote controls and/or televisions that embody or use the same or equivalent multimodal remote control systems or methods;

1           15.     The foregoing products shall be referred to as the Wistron B Accused Products.

2           16.     The above-described acts of infringement committed by Defendants have  
3 caused injury and damage to Wistron, and will continue to cause additional severe and  
4 irreparable injury and damages unless Defendants are enjoined from further infringing all of  
5 the foregoing Wistron Patents.

6  
7                                   **FIRST CLAIM FOR RELIEF**

8                                   **Infringement of U.S. Patent No. 5,410,713**

9           17.     Wistron alleges, and incorporates by reference, the allegations of paragraphs 1  
10 through 16 above.

11           18.     Defendants have directly, indirectly, contributorily, and/or by inducement  
12 infringed one or more claims of the '713 patent, literally, and/or under the doctrine of  
13 equivalents as proscribed by 35 U.S.C. § 271. The accused products include the Wistron A  
14 Accused Products identified above.

15           19.     As a consequence of Defendants' infringement, Wistron is entitled to recover  
16 damages adequate to compensate it for the injuries complained of herein, but in no event less  
17 than a reasonable royalty. Wistron is further entitled to have Defendants enjoined from  
18 committing additional future acts of infringement that would subject Wistron to irreparable  
19 harm.

20                                   **SECOND CLAIM FOR RELIEF**

21                                   **Infringement of U.S. Patent No. 5,870,613**

22           20.     Wistron alleges, and incorporates by reference, the allegations of paragraphs 1  
23 through 19 above.

24           21.     Defendants have directly, indirectly, contributorily, and/or by inducement  
25 infringed one or more claims of the '613 patent, literally, and/or under the doctrine of  
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1 equivalents as proscribed by 35 U.S.C. § 271. The accused products include the Wistron A  
2 Accused Products identified above.

3 22. As a consequence of Defendants' infringement, Wistron is entitled to recover  
4 damages adequate to compensate it for the injuries complained of herein, but in no event less  
5 than a reasonable royalty. Wistron is further entitled to have Defendants enjoined from  
6 committing additional future acts of infringement that would subject Wistron to irreparable  
7 harm.

### 8 **THIRD CLAIM FOR RELIEF**

#### 9 **Infringement of U.S. Patent No. 5,903,765**

10 23. Wistron alleges, and incorporates by reference, the allegations of paragraphs 1  
11 through 22, above.

12 24. Defendants have directly, indirectly, contributorily, and/or by inducement  
13 infringed one or more claims of the '765 patent, literally, and/or under the doctrine of  
14 equivalents as proscribed by 35 U.S.C. § 271. The accused products include the Wistron A  
15 Accused Products identified above.

16 25. As a consequence of Defendants' infringement, Wistron is entitled to recover  
17 damages adequate to compensate it for the injuries complained of herein, but in no event less  
18 than a reasonable royalty. Wistron is further entitled to have Defendants enjoined from  
19 committing additional future acts of infringement that would subject Wistron to irreparable  
20 harm.

### 21 **FOURTH CLAIM FOR RELIEF**

#### 22 **Infringement of U.S. Patent No. 5,450,079**

23 26. Wistron alleges, and incorporates by reference, the allegations of paragraphs 1  
24 through 25 above.

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1           27. Defendants have directly, indirectly, contributorily, and/or by inducement  
2 infringed one or more claims of the '079 patent, literally, and/or under the doctrine of  
3 equivalents as proscribed by 35 U.S.C. § 271. The accused products include the Wistron B  
4 Accused Products identified above.

5           28. As a consequence of Defendants' infringement, Wistron is entitled to recover  
6 damages adequate to compensate it for the injuries complained of herein, but in no event less  
7 than a reasonable royalty. Wistron is further entitled to have Defendants enjoined from  
8 committing additional future acts of infringement that would subject Wistron to irreparable  
9 harm.

#### 10                                   **FIFTH CLAIM FOR RELIEF**

##### 11                                   **Willful Infringement**

12           29. Wistron alleges and incorporates by reference, the allegations of paragraphs 1  
13 through 28 above.

14           30. As set forth above, since no later than June 28, 2007, representatives of SEC  
15 were notified of several of Wistron's infringement claims under the '613 patent.

16           31. On the face of the '613 patent is a reference to the fact that the underlying  
17 application for said patent was a continuation of the January 2, 1992 application that  
18 ultimately issued as the '713 patent. See Exhibit 2.

19           32. Defendants' representatives should have conducted an analysis of the '613 and  
20 '713 patents in response to having been put on notice of the '613 patent, and therefore did  
21 discover or should have discovered the existence of the '765 patent.

22           33. Defendants' failure to obtain a license to the Wistron Patents and/or failure to  
23 cease their infringing activities was objectively reckless and constitutes willful infringement  
24 of the Wistron Patents for purposes of 35 U.S.C. §§ 284 and 285.

**PRAYER FOR RELIEF**

WHEREFORE, Wistron prays for relief as follows:

1. Entry of a judgment declaring that each of the Defendants has infringed one or more claims of the Wistron A Patents;

2. Entry of a judgment declaring that each of the Defendants has infringed one or more claims of the Wistron B Patent;

3. Entry of a preliminary and permanent injunction, pursuant to 35 U.S.C. § 283, enjoining each of the Defendants, and their respective agents, servants, officers, directors, employees and all other persons acting in concert with them, directly and indirectly, from any further acts of infringement, contributory infringement, or inducement of infringement of the Wistron A Patents;

4. Entry of a preliminary and permanent injunction, pursuant to 35 U.S.C. § 283, enjoining each of the Defendants, and their respective agents, servants, officers, directors, employees and all other persons acting in concert with them, directly and indirectly, from any further acts of infringement, contributory infringement, or inducement of infringement of the Wistron B Patent;

5. Entry of a judgment pursuant to 35 U.S.C. § 284 awarding to Wistron damages to compensate for Defendants' infringements in an amount to be determined at trial (and, if necessary, related accountings), but not less than a reasonable royalty;

6. Entry of a judgment pursuant to 35 U.S.C. § 284 trebling the damages awarded to Wistron to the extent one or more of the Defendants' infringement has been willful;

7. Entry of a judgment pursuant to 35 U.S.C. § 285 declaring that this is an exceptional case, and awarding Wistron its costs of suit, including reasonable attorney's fees;

8. Entry of a judgment awarding Wistron pre-and post-judgment interest in accordance with the rates allowed by law; and

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1 9. Any such other and further relief as the Court deems just and proper.  
2  
3

4 DATED: October 1, 2008.

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21 **Attorneys for Plaintiff**  
22 **Wistron Corporation**  
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**JURY TRIAL DEMANDED**

Wistron requests a trial by jury on each cause of action for which a trial by jury is proper.

DATED: October 1, 2008.

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October 2008, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system and I caused to be served a true and correct copy of the foregoing by mailing via U.S. Mail to:

Samsung Electronics America, Inc.  
CT Corporation System, Registered Agent  
1801 West Bay Dr NW, Suite 206  
Olympia, WA 98502

Samsung Electronics Co., Ltd.  
Attn: Bryan Hopkins, General Counsel  
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Ridgefield Park, NJ 07660

Samsung Telecommunications America, LLC  
Corporation Service Company, Registered Agent  
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Wilmington, DE 19808

/s/ Judy Goldfarb  
Judy Goldfarb, Legal Assistant

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